

G-010/GR-90-678 ORDER VARYING TIME REQUIREMENTS FOR EXCEPTIONS TO THE ALJ'S REPORT, ESTABLISHING DEADLINES FOR REPLY COMMENTS, AND ESTABLISHING SERVICE REQUIREMENTS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna
Patrice M. Vick

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application
of Midwest Gas, a Division of
Iowa Public Service Company, for
Authority to Increase its Rates
for Gas Service in the State of
Minnesota

ISSUE DATE: May 14, 1991

DOCKET NO. G-010/GR-90-678

ORDER VARYING TIME REQUIREMENTS
FOR EXCEPTIONS TO THE ALJ'S
REPORT, ESTABLISHING DEADLINES
FOR REPLY COMMENTS, AND
ESTABLISHING SERVICE
REQUIREMENTS

PROCEDURAL HISTORY

On May 13, 1991 Administrative Law Judge (ALJ) Allen E. Giles filed and served his Findings of Fact, Conclusions and Recommended Order (ALJ's Report) in the above-entitled general rate case. Under Minnesota Rules, part 7830.3900, parties are required to file any exceptions to the ALJ's Report within 20 days of its service upon them.

On May 14, 1991 the Commission met on its own motion to consider two issues: (1) whether to vary the rule to shorten the 20-day period for filing exceptions, and (2) whether to allow parties to file replies to exceptions, which are optional under the rules. The parties had stated a preference for allowing reply comments.

FINDINGS AND CONCLUSIONS

The 20-Day Exception Period

The Commission may grant a variance to any of its rules upon finding that the following conditions apply:

1. Enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
2. Granting the variance would not adversely affect the public interest; and
3. Granting the variance would not conflict with standards imposed by law.

Minn. Rules, part 7830.4400.

The Commission finds that the requirements for granting a variance are met in this case.

Enforcing the rules' 20-day exception period would impose an excessive burden on the Commission and would not serve the regulatory process. The Commission is required by law to issue a final decision in this case within 10 months of its filing, by July 15, 1991. Minn. Stat. § 216B.16 (1990). The number and complexity of the issues in this case require careful analysis of the record. Allowing parties 20 days to file exceptions to the ALJ's Report would not allow adequate time to conduct that analysis and meet the 10 month statutory deadline.

Varying the 20-day exception period would not adversely affect the public interest. In fact, it would serve the public interest by ensuring that the Commission had time for careful and thorough deliberation.

Finally, varying the 20-day exception period would not conflict with standards imposed by law. Minn. Stat. § 14.61 (1990) requires that the ALJ's Report be available to parties for at least 10 days before the final decision is made, that parties be allowed to file exceptions to the Report, and that parties be allowed to present oral argument. The accelerated filing requirements under consideration would comply with these and all other statutory requirements.

The Commission concludes that the requirements of Minn. Rules, part 7830.4400, have been met and will order Minn. Rules, part 7830.3900 varied.

Replies to Exceptions

The Commission agrees with the parties that allowing replies to exceptions is likely to help clarify the issues and the parties' positions. The Commission will allow replies to exceptions.

Expedited Service

Finally, given the accelerated filing deadlines in this case, the Commission finds that allowing service by mail would put all parties under unnecessary additional time pressure. The Commission will therefore require parties to serve their exceptions and replies to exceptions in person or by an overnight delivery service.

ORDER

1. Minn. Rules, part 7830.3900 is hereby varied to require that exceptions to the ALJ's Report be filed and served no later than May 23, 1991.

2. Replies to exceptions shall be filed and served no later than June 3, 1991.
3. All parties shall serve their exceptions to the ALJ's Report and replies to exceptions in person or by an overnight delivery service.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)